

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

March 4, 2004

A meeting of the Board of Environmental Protection was held on Thursday, March 4, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Katharine Littlefield, Richard Wardwell, Virginia Plummer, Matt Scott, and Jean T. Wilkinson

Note: There is one vacancy

Absent: Irving Faunce and Nancy Ziegler

<u>Staff:</u>	<u>Bureau of Remediation and Waste Mgmt.</u>	Stacy Ladner
	<u>Bureau of Land and Water Quality</u>	Stacie S. Beyer
	<u>Bureau of Air Quality</u>	David Wright

Others: David P. Littell, Deputy Commissioner
Mary Sauer, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner David Littell reported the following:

West Old Town Landfill: The Department conducted a public informational session on February 24, 2004 regarding the West Old Town landfill application. The event was very well attended and well received by the public. Department staff involved with the planning and implementation of this event did an excellent job. A draft order has been issued and made available on the Department's web page.

Lincoln Pulp and Paper and Eastern Fine Paper: Last week the Department introduced evidence regarding the potential hazards to public health and the environment in the event that the mills go cold. The Court agreed with the Department's position and agreed that the creditors would not be allowed to abandon the facilities and allowed for continued negotiations on the sale of the mills.

Dioxin: A recent report indicated that dioxin levels in fish tissue are generally going down in Maine. The Kennebec and Penobscot rivers are showing near background levels of dioxin in fish tissue. At least two more years of monitoring in the Androscoggin and Sebastacook river systems are needed before revising the fish consumption advisory for those waters.

Board member Hilton asked whether improvements are significant enough to allow upgrading of any river segments.

Department will follow up with answer to this question..

Bonds: The Department will be providing testimony before the Joint Standing Committee on Natural Resources and Appropriations regarding the \$16 million bond package. Of the \$16 million, \$13.6 million dollars is earmarked for DEP programs with \$11 million targeted for wastewater facility improvements.

Questions:

Board member Plummer asked about the nature of the Department's proposed changes to the provisionally adopted Sand Dune Rules and the prospect of financial support for a buy-back program.

The Department in conjunction with the Department of Conservation recommended a change in the program that would establish a buy back option for the state. In circumstances where a dwelling has sustained significant damage, the owner could seek a purchase by the State of Maine prior to seeking a permit to rebuild the structure. The language related to this suggested change to the rule is being developed. The Deputy Commissioner will provide Board members with a copy of the Department's testimony.

It is anticipated that a fiscal note would be associated with this proposed change to the rule. The Committee is expected to report out on the Sand Dune Rules within the next two weeks.

Board member K. Littlefield asked if unissued bonds are included in the information for the presentation to the Committee this afternoon.

The Department will be providing a chart that depicts an anticipated drawdown schedule for un-issued bonds. The Deputy Commissioner noted that the drawdown schedule shows that all monies would be expended by FY05.

B. CHAIRMAN'S COMMENTS:

Chair Wardwell reminder Board members that if an appeal of the Department's licensing decision regarding the West Old Town Landfill is before the Board that he will recuse himself from participation. He noted was that he has been a consultant for Casella from 1984 to present.

Board member E. Hilton asked about the status of an appeal of the Old Town permit and if the deadline would apply differently to the Penobscot Indian Nation.

The Board's executive analyst explained that the draft order is available for public comment (as of February 17th) and the public may provide written comments until a deadline is established or a permit is issued. Any deadline for comment would apply equally to all parties.

Board member Irving Faunce provided a news article about former member John Tewhey.

C. EXECUTIVE ANALYST COMMENTS:	None
D. BOARD CALENDAR:	None
E. DEPARTMENTAL ORDERS:	Reviewed
F. EXECUTIVE SESSION:	None

II CONSENT AGENDA ITEMS

The Board voted (7-0-0-2) on a motion to approve the minutes with the following corrections:

(1) December 4th on page 3 item 1. Pinnacle Partners of Sable Oaks / Paragraph 6A... acceptable to the Bank, ~~it is the Bank's intent~~ will consider an application to fund a construction loan in the approximate amount... and (2) December 18th Board vote of (8-0-0-1) on consent agenda item 4 Michael Falvey and Family Tree Landscaping LLC.

Board members Ernest Hilton, Virginia Plummer, Richard Wardwell, Nancy Anderson, Katharine Littlefield, Jean T. Wilkinson, and Matt Scott, voted to support the motion. Board members Irving Faunce and Nancy Ziegler were absent.

1. BEP MINUTES, December 4, 2003 – approve
2. BEP MINUTES, December 18, 2003 - approve

The Board voted (7-0-0-2) on a motion to approve as presented consent agenda items 3, 4, 5, 6, 7, 8, 9, and 10

Board members Ernest Hilton, Virginia Plummer, Richard Wardwell, Nancy Anderson, Katharine Littlefield, Jean T. Wilkinson and Matt Scott, voted to support the motion. Board members Irving Faunce and Nancy Ziegler were absent.

3. SIERRA WOODS, INC., Saco – Administrative Consent Agreement (BLWQ-Land)

4. NORTHPORT VILLAGE CORPORATION and LYNCH CONSTRUCTION, Northport - Administrative Consent Agreement (BLWQ-Land)
5. DONALD S. BUBAR, Unity – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
6. JO-AN KRIVITSKY, Raymond – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
7. REGINALD GRANT, Linneus - Administrative Consent Agreement and Enforcement Order (BLWQ - Land).
8. STEPHEN E. HASKELL, China – Administrative Consent Agreement (BLWQ - Land)
9. DAVID B. BRAGG, Sumner – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
10. BLOUINS MOTORS INC., Augusta – Administrative Consent Agreement and Enforcement Order (BRWM)

III. Regular Agenda

1. CHAPTER 850, IDENTIFICATION OF HAZARDOUS WASTES / AMENDMENT (post to written comment).
Staff: Stacy Ladner, Bureau of Remediation and Waste Management
The Board voted (7-0-0-2) on a motion to post for written public comment the amendments to Chapter 850, Identification of Hazardous Waste and establish a comment deadline of April 15, 2004. The vote was taken pursuant to 38 M.R.S.A. sections 1319-O and 341-D.
Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Irving Faunce and Nancy Ziegler were absent.
2. CHAPTER 137, EMISSION STATEMENTS – CHAPTER 100, DEFINITIONS / AMENDMENT (post to public hearing).
Staff: David Wright, Bureau of Air Quality
The Board voted (7-0-0-2) on a motion to post to public hearing on April 15, 2004 the amendments to Chapter 137, Emission Statements which are being proposed to comply with the federal consolidated emissions reporting rule and the State of Maine law for reporting of greenhouse gases and associated amendments to Chapter 100 Definitions as presented. The vote was taken pursuant to 38 M.R.S.A. sections 341-D, 585-A, 585-C and 575.
Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board members Irving Faunce and Nancy Ziegler were absent.
3. ANNE S. HANNUM / Remand (deliberative session)
Staff: Cynthia Bertocci, BEP Executive Analyst
Staff: Stacy Beyer, Bureau of Land and Water Quality

Note: no printed documentation included in draft packet.